

§ 1479.114

unharvested, as determined by an appraisal.

§ 1479.114 Calculation of acreage for crop losses other than prevented planted.

(a) Acreage shall be calculated using the number of acres shown to have been planted to a crop.

(b) In cases where there is a repeat crop or a multiple planted crop in more than one planting period, or if there is multiple cropped acreage meeting criteria established in paragraph (c) or (d) of this section, each of these crops may be considered separate crops for 2003, 2004, or 2005 CDP if the county committee determines that all of the following conditions are met:

(1) Both the initial and subsequent planted crops were planted with the intent to harvest;

(2) Both the initial and subsequent planted crops were planted within the normal planting period for that crop;

(3) Both the initial and subsequent planted crops meet all other eligibility provisions of this part including good farming practices; and

(4) Each planting could reach maturity if each planting was harvested or would have been harvested.

(c) In cases where there is multiple-cropped acreage, each crop may be eligible for disaster assistance separately if both of the following conditions are met:

(1) The specific crops are approved by the State Committee as eligible multiple-cropping practices in accordance with procedures approved by the Deputy Administrator; and

(2) The farm containing the multiple-cropped acreage has a history of successful multiple cropping based on timely filed crop acreage reports.

(d) Producers with multiple-cropped acreage not meeting the criteria in paragraph (c) of this section may be eligible for disaster assistance on more than one crop if the producer has verifiable records establishing a history of carrying out a successful multiple-cropping practice on the specific crops for which assistance is requested. All required records acceptable to CCC as determined by the Deputy Administrator must be provided before payments are issued.

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(e) Producers with multiple-cropped acreage not meeting the criteria in paragraphs (c) or (d) of this section must select the crop for which assistance will be requested. If more than one producer has an interest in the multiple cropped acreage, all producers must agree to the crop designated for payment by the end of the application period or no payment will be approved for any crop on the multiple-cropped acreage.

(f) Benefits under this part shall apply to irrigated crops where the acreage was affected by a lack of water or contamination by saltwater intrusion of an irrigation supply resulting from drought conditions.

§ 1479.115 Calculation of prevented planted acreage.

(a) When determining losses under this part, prevented-planted acreage will be considered separately from planted acreage of the same crop.

(b) Except as provided in paragraph (c) of this section, for insured crops, disaster payments under this part for prevented-planted acreage shall not be made unless RMA documentation indicates that the eligible producer received a prevented planting payment under the RMA-administered program.

(c) For insured crops, disaster payments under this part for prevented-planted acreage will be made available for the following crops for which prevented planting coverage was not available and for which the county committee will make an eligibility determination according to paragraph (d) of this section: peppers; sweet corn (fresh market); tomatoes (fresh market); tomatoes (processing).

(d) The producer must prove, to the satisfaction of the county committee, an intent to plant the crop and that such crop could not be planted because of an eligible disaster. The county committee must be able to determine the producer was prevented from planting the crop by an eligible disaster that:

(1) Prevented other producers from planting on acreage with similar characteristics in the surrounding area; and

(2) Occurred after the previous planting period for the crop.

(3) Unless otherwise approved by the Deputy Administrator, began no earlier than the planting season for that crop.

(e) Prevented planted disaster benefits under this part shall not apply to:

(1) Aquaculture, including ornamental fish; perennial forage crops grown for hay, seed, or grazing; honey; maple sap; millet; mint; nursery crops; cultivated wild rice; fresh market beans; cabbage, pumpkins, sweet potatoes; winter squash, tobacco, turf grass sod, and vine crops;

(2) Uninsured crop acreage that is unclassified for insurance purposes;

(3) Acreage that is used for conservation purposes or intended to be left unplanted under any CCC or USDA program;

(4) Any acreage on which a crop other than a cover crop was harvested, hayed, or grazed during the crop year;

(5) Any acreage for which a cash lease payment is received for the use of the acreage the same crop year unless the county committee determines the lease was for haying and grazing rights only and was not a lease for use of the land;

(6) Acreage for which planting history or conservation plans indicate that the acreage would have remained fallow for crop rotation purposes;

(7) Acreage for which the producer or any other person received a prevented planted payment for any crop for the same acreage, excluding share arrangements;

(8) Acreage for which the producer cannot provide proof to the county committee that inputs such as seed, chemicals, and fertilizer were available to plant and produce a crop with the expectation of producing at least a normal yield; and

(9) Any other acreage for which, for whatever reason, there is cause to question whether the crop could have been planted for a successful and timely harvest, or for which prevented planting credit is not allowed under the provisions of this part.

(f) Prevented planting payments are not provided on acreage that had either a previous or subsequent crop planted in the same crop year on the acreage, unless the county committee deter-

mines that all of the following conditions are met:

(1) There is an established practice of planting two or more crops for harvest on the same acreage in the same crop year;

(2) Both crops could have reached maturity if each planting was harvested or would have been harvested;

(3) Both the initial and subsequent planted crops were planted or prevented-planting within the normal planting period for that crop;

(4) Both the initial and subsequent planted crops meet all other eligibility provisions of this part including good farming practices; and

(5) The specific crops meet the eligibility criteria for a separate crop designation as a repeat or approved multiple cropping practice set out in §1479.114.

(g)(1) Disaster benefits under this part shall not apply to crops where the prevented-planted acreage was affected by a disaster that was caused by drought unless on the final planting date or the late planting period for non-irrigated acreage, the area that was prevented from being planted had insufficient soil moisture for germination of seed and progress toward crop maturity because of a prolonged period of dry weather;

(2) Verifiable information collected by sources whose business or purpose to record weather conditions, including but not limited to the local weather reporting stations of the U.S. National Weather Service.

(h) Prevented planting benefits under this part shall apply to irrigated crops where the acreage was prevented from being planted due to a lack of water resulting from drought conditions or contamination by saltwater intrusion of an irrigation supply resulting from drought conditions.

(i) For uninsured or non-insurable crops and the insured crops listed in paragraph (c) of this section, for prevented planting purposes:

(1) The maximum prevented-planted acreage for all crops cannot exceed the number of acres of cropland in the unit for the crop year and will be reduced by the number of acres planted in the unit;

(2) The maximum prevented planted acreage for a crop cannot exceed the number of acres planted by the producer, or that was prevented from being planted, to the crop in any 1 of the 4 crop years previous to the disaster year as determined by the county committee;

(3) For crops grown under a contract specifying the number of acres contracted, the prevented-planted acreage is limited to the result of the number of acres specified in the contract minus planted acreage;

(4) For each crop type or variety for which separate prices or yields are sought for prevented-planted acreage, the producer must provide evidence that the claimed prevented-planted acres were successfully planted in at least 1 of the most recent 4 crop years; and

(5) The prevented planted acreage must be at least 20 acres or 20 percent of the intended planted acreage in the unit, whichever is less.

(j) Notwithstanding the provisions of part 718 of this chapter, late-filed crop acreage reports for previous years shall not be accepted for CDP purposes.

§ 1479.116 Quantity adjustments for diminished quality for certain crops.

(a) For the crops identified in paragraph (b) of this section, subject to this part, the quantity of production of crops of the producer shall be adjusted to reflect diminished quality resulting from the disaster.

(b) Crops eligible for quality adjustments to production are limited to:

(1) Barley; canola; corn; cotton; crambe; flaxseed; grain sorghum; mustard seed; oats; peanuts; rapeseed; rice; safflower; soybeans; sugar beets; sunflower-oil; sunflower-seed; tobacco; wheat; and

(2) Crops with multiple market uses such as fresh, processed or juice, as supported by NASS data or other data as CCC determines acceptable.

(c) The producer must submit verifiable documentation for determining the grade and other discount factors that were applied to the crop.

(d) Quality adjustments will be applied to crops experiencing at least a 20 percent loss after production has been

adjusted to standard moisture, when applicable.

(e) For all crops listed in paragraph (b)(1) of this section, except for cotton, if a quality adjustment has been made for multi-peril crop insurance purposes, an additional adjustment will not be made.

(f) Quality adjustments for crops other than cotton, peanuts, sugar beets, and tobacco listed in paragraph (b)(1) of this section may be made by applying an adjustment factor based on dividing the CCC marketing assistance loan rate applicable to the crop and producer determined according to part 1421 of this chapter by the unadjusted county marketing assistance loan rate for the crop. For crops that receive a grade of "sample" and are marketed through normal channels, production will be adjusted as determined by CCC. County committees may, with state committee concurrence, establish county average quality adjustment factors.

(g) Quality adjustments for cotton shall be based on the difference between:

(1) The loan rate applicable to the crop and producer determined according to part 1427 of this chapter; and

(2) The adjusted county loan rate. The adjusted county rate is the county loan rate adjusted for the 5-year county average historical quality premium or discount, as determined by CCC.

(h) For 2003, 2004, and 2005 peanuts, quality adjustments shall be based on the difference between the actual sales price, or other proceeds, received and the price announced by CCC under section 1421.10 of part 1421 of this chapter, by type of peanut for the applicable crop year.

(i) Quality adjustments for crops with multiple market uses such as fresh, processed and juice, shall be applied based on the difference between the producer's historical marketing percentage of each market use compared to the actual percentage for the 2003, 2004, or 2005 crop year. These quality adjustments are built into the production loss determination. Production determinations from Federal crop insurance will not be used.